

# LABOR NEWS

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Mike Huckabee, Governor

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James L. Salkeld, Director



## REMMEL DAM IN MALVERN RECEIVES AWARD FOR REACHING FIFTY YEAR SAFETY MILESTONE

**R**emmel Dam in Malvern, a division of Entergy Arkansas, Inc. was awarded an Accumulative Year Safety Award on September 27 for accumulating 50 years without a lost day away from work due to a work related injury or illness.

The four employees at the dam achieved this accomplishment between August of 1953 and August of 2003. The company has had a safety program since 1925 which includes a safety committee made up of both management and employees.

The Arkansas Department of Labor, the Arkansas Insurance Department and the Arkansas Workers' Compensation Commission honors Arkansas companies who excel in on-the-job safety through a safety award program whereby companies can qualify to receive several types of awards.

The Accumulative Years Service Award is designed for small employers that work years without a lost day away from work, but are unable to reach any of the Million Work Hour Awards. Forty-one Accumulative Years Awards were presented to Arkansas companies during the last fiscal year and 270 have been awarded since 1995 when the award originated.

For information on how your organization can qualify to receive a safety award, contact Ann Sanders at 501-682-4329 or e-mail [ann.sanders@mail.state.ar.us](mailto:ann.sanders@mail.state.ar.us)

## ECONOMY IN NW ARKANSAS CHOSEN BEST IN NATION

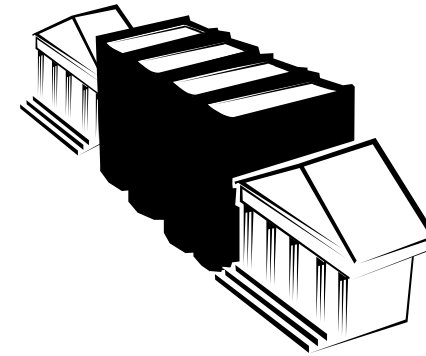
**E**arlier this year, the Milken Institute, a think-tank in Santa Monica, California, chose the Fayetteville-Springdale-Rogers area as the place with the strongest regional economy among the 296 other U.S. metropolitan areas ranked.

The index measures where jobs are being created, economies are growing and businesses are thriving. This year's top areas excelled due to traditional businesses like retail, a growing population, and reliable growth industries such as government and health care, as opposed to technology-oriented metros who lead in the past.

The top ten cities were:

1. Fayetteville, Ark.
2. Las Vegas, Nev.
3. Fort Myers, Fla.
4. West Palm Beach, Fla.
5. San Diego, Calif.
6. San Luis Obispo, Calif.
7. Laredo, Texas
8. Brownsville, Texas
9. McAllen, Texas
10. Monmouth, N.J.

The Fayetteville-Springdale-Rogers Metropolitan Area ranked high in all the indexes, but ranked first in job growth and ninth in wages and salaries growth.



## OVERTIME REVISIONS PUT ON HOLD

*By Daniel Faulkner  
Attorney, Arkansas Department of Labor*

**I**n September, the United States Senate voted 54-45 to block proposed revisions of Part 541 of the current United States Department of Labor (DOL) regulations for "white collar workers." The proposed changes would have simplified the definitions of "exempt" employees.

The USDL had published a proposal for streamlining these regulations to ensure greater compliance and understanding for employers and employees. There were three main areas that the changes would have most directly affected: minimum salaries, suspensions, and the confusing "duties test".

The basic premise of "white collar exemptions" is that employees who meet the requirements of Part 541 are exempt from minimum wage and overtime provisions of the federal Fair Labor Standards Act (FLSA). Being "exempt" essentially means that certain employees are not entitled to minimum wage or overtime.

The first proposed change would have significantly increased the minimum salary requirement to \$425 a week, a significant jump from the current minimum of \$155 a week for administrative and executive employees and \$170 a week for professionals.

Second, the proposal would have also allowed suspension of exempt employees without pay for disciplinary reasons in one-day

increments. Currently, such suspensions cannot be less than one week.

Finally, the "duties test" definitions would be refined for greater clarity. These "duties tests" currently allow employees to be exempt if they perform certain duties as executive, administrative, or professional employees. For executive employees, the proposed test would have had three requirements: managing the enterprise; directing the work of two or more employees; and having authority to hire, fire, or make recommendations about hiring or firing that are given great weight. For administrative employees, the new regulations would replace the "discretion and independent judgment" test. The new test would have required that the exempt employee must simply hold a "position of responsibility." For executive employees, the new regulations would have supplemented the current advanced learning requirements to include certain professionals who gain equivalent knowledge and skills through a combination of job experience, military training, and attending a technical school or community college.

These proposed changes would have removed many higher paid "white collar" workers from overtime, while allowing many lower paid workers to receive overtime. Each political party has its version of the numbers of workers that would be affected by the changes. The Senate's 54-45 vote has effectively shelved the matter for the time being.

However, the issue is not dead. The DOL received roughly 80,000 written public comments regarding the proposed changes. Business groups will continue to lobby for changes in the confusing regulatory structure, while labor groups will continue to oppose the changes. President Bush has indicated that he may veto any proposal that does not include these overtime changes. House-Senate bargainers will spend the next few weeks writing a compromise version of the regulations. It is not clear when the matter will be resolved.

## HIV AT WORK SITE AVAILABLE

**M**ore people are living and working with HIV than ever before, proof that HIV has not gone away. Neither have the complex issues it raises. Does your workplace handle discrimination, return-to-work, or employee morale issues?

Centers for Disease Control's Business/Labor Responds to AIDS program helps businesses and labor unions meet the challenges of HIV/AIDS in the workplace and the community. Visit <http://www.hivatwork.org/tools/tools.htm> or call the Business and Labor Resource Service at 1-800-458-5231 for resources and tools to fight HIV/AIDS in the workplace.

## HOW LONG IS 'THE LONG HAUL'

**H**ow long have wage-and-salary workers been with their current employers, a measurement known as employee tenure? The answer in January 2002 was a median 3.7 years, according to the U.S. Department of Labor, Bureau of Labor Statistics.

Variation in tenure resulted from several factors. For example, workers aged 55 to 64 had median tenure that was 3 1/2 times that of workers aged 25 to 34. Those age differences also influenced employee tenure in industries and occupations: workers in the public sector, who are relatively older, had twice the median tenure years of those in the private sector. And officials and administrators in public administration had the highest median tenure – 11 years – in contrast to food service workers, who had the lowest at one year. Officials and administrators in public administration tend to be older than food service workers.

For more details about tenure data, call (202) 691-6378 or visit [www.bls.gov/news.release/tenure.nr0.htm](http://www.bls.gov/news.release/tenure.nr0.htm).



## IN THE WORKS

✉ The incidence of living in poverty greatly diminishes as workers achieve higher levels of education. In 2001, only 1.5 percent of college graduates were counted among the working poor. This compared with 2.6 percent of workers with associate degrees, 4.4 percent of those with some college but no degree, 5.8 percent of high school graduates with no college, and 13.1 percent of high school dropouts.

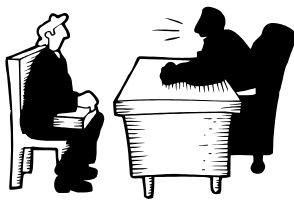
✉ At all educational levels other than college graduate, women were more likely than men to be among the working poor. At all educational attainment levels, blacks were more likely to be among the working poor than were white.

✉ AARP has a new free database of the best websites for baby boomers and older Americans, with everything from classic 1950s TV shows to genealogy, Medicare and Social Security. To learn more, visit [www.aarp.org/internetresources](http://www.aarp.org/internetresources).

✉ Arkansas' Official Web Site, [www.arkansas.gov](http://www.arkansas.gov) (formerly accessArkansas.org) has been recognized for eGovernment Excellence and is among the top five "Best of the Web" state portals. Over 260 other portals were assessed for the competition.

✉ If your full retirement age is 65, your benefits would be reduced by about 20 percent if you start collecting them at 62, 13 1/3 percent if you start collecting at 63, and 6 2/3 if you wait till you're 64.

✉ The U.S. Department of Labor and the U.S. Department of Education have developed a website to link the educational community with the world of work. It provides information on the fastest growing industries and occupations, the skills and education they require and more. Visit [www.CareerVoyages.gov](http://www.CareerVoyages.gov)



## DISABLED JOB APPLICANTS BENEFIT FROM EEOC FACT SHEET

With October being National Disability Employment Awareness Month, the U.S. Equal Employment Opportunity Commission (EEOC) released a new fact sheet designed to educate job applicants on how Title I of the Americans with Disabilities Act (ADA) protects their rights throughout the hiring process. The fact sheet is available at [www.eeoc.gov](http://www.eeoc.gov).

"The EEOC created this fact sheet to empower job seekers with disabilities by helping them to navigate all aspects of the hiring process" said Commission Chair Cari M. Domineque.

The fact sheet covers employer obligations such as the provision of "reasonable accommodation" for applicants with disabilities who need assistance during the hiring process. Accommodations may include providing or modifying equipment, providing written materials in an accessible format (for example, braille), providing sign language interpreters, and

ensuring that interviews are held in accessible locations. Applicants who require reasonable accommodations from prospective employers must request them and be prepared to explain why accommodation is needed.

The new publication also explains the ADA's rules on when employers may seek medical information from applicants. Before making a job offer, an employer cannot require a medical examination or ask questions that are likely to reveal that an applicant has a disability. The fact sheet reviews the types of questions that are prohibited during interviews and on applications, and discusses what questions an employer may ask of applicants with obvious disabilities, such as deafness or loss of a limb.

In addition to enforcing Title I of the ADA, which prohibits discrimination against people with disabilities in the private sector and state and local governments, and the Rehabilitation Act's prohibitions against disability discrimination in the federal government, EEOC enforces Title VII of the Civil Rights Act of 1964, which prohibits employment discrimination based on race, color, religion, sex, and national origin; the Age Discrimination in Employment Act, which prohibits discrimination against individuals 40 years of age or older; the Equal Pay Act; and sections of the Civil Rights Act of 1991.



## EMPLOYER AND EMPLOYEE MYTHS AND LEGAL REALITIES REGARDING INTERNET AND E-MAIL USE IN THE WORKPLACE

### MYTH

My employer does not have the right to read my personal e-mail or review the Internet sites I visited.

It is no big deal if my employees use e-mail or the Internet for personal reasons on the job. As an employer, I do not need to monitor their use.

If I, as an employer, am facing legal liability for employees' e-mail and Internet use, I should just prohibit them from any personal use.

### LEGAL REALITY

Employees have no privacy rights in their e-mail and Internet use, and Federal law does not prohibit employers from monitoring that use.

Failure to monitor employees' e-mail and Internet use can lead to legal liability in more ways than one.

Employers may be violating Federal labor law by implementing blanket prohibitions on personal use.

*For more information on Workplace E-mail and Internet Use: Employees and Employers Beware, look for the article in the U.S. Department of Labor's Monthly Labor Review, February 2003.*

## STATE'S WORKPLACE FATALITIES STUDIED

Arkansas had 80 workplace fatalities during the year 2002. These findings are from the National Census of Fatal Occupational Injuries conducted by the Arkansas Department of Labor and the U.S. Department of Labor Bureau of Labor Statistics.

Major findings include:

- ◆ Transportation incidents claimed the most lives for the ninth year in a row. In 2002 transportation accounted for 37 of the 80 fatal occupational injuries or 46 percent.
- ◆ Assaults and violent acts were up from four in 2001 to seven.
- ◆ Contact with objects and equipment was down from 13 in 2001 to 9 in 2002.

### LABOR NEWS

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